

Attorney Docket No.: HPL-0001
Application Serial No.: 10/562,077
Reply to Office Action of: December 18, 2008
Amendment Dated: April 17, 2009

Amendments to the Drawings

The attached replacement sheets of drawings include changes to FIGs 1 and 2. Specifically, FIG 1 is amended herein to add reference numerals 5 and 6, which refer to audio speakers and a microphone, respectively. In addition, FIG 2 is amended herein to add reference numerals 7, 8 and 9, which refer to a radio antenna, controls and a radio transceiver, respectively. No new matter is added.

REMARKS

Claims 1-12 were pending in the present application prior to the current Amendment. Claims 1-3, 5-9 and 11 are amended above. New claims 13-23 are added above. Claims 4, 10 and 12 are cancelled above. Claims 1-3, 5-9, 11 and 13-23 are now pending in the present application. Given that there are 20 total claims, including 3 independent claims now pending, Applicant believes that no additional claims fees are due.

Applicant affirms the election of Group I, which includes claims 1-11. Claim 12 is cancelled above without prejudice to the filing of divisional or continuation applications.

The Applicant notes that the Office Action Summary acknowledges the claim for foreign priority in the application; however, the Office Action Summary does not indicate whether a certified copy has been received. Further, the Office Action does not provide a list of the certified copies not received, as indicated by checked box 12(c). It is unclear whether any additional certified copies of the priority documents are needed. Clarification is respectfully requested.

Objections to the Drawings

The drawings were objected to under 37 C.F.R. 1.83(a) because it was indicated that "the controls, microphone, receiver, etc. must be shown." These entities were actually shown in the original drawings, but they were not numbered. Figure 1 is amended herein to add reference numerals 5 and 6, which refer to audio speakers and a microphone, respectively. In addition, Figure 2 is amended herein to add reference numerals 7, 8 and 9, which refer to a radio antenna, controls and a radio transceiver, respectively. Furthermore, the specification is amended herein to incorporate reference numerals 5-9. Replacement sheets including amended Figures 1 and 2 are attached.

Applicant submits that no new matter is added by the above amendments to the drawings and specification. Reconsideration and removal of the objections to the drawings is respectfully requested.

35 U.S.C. 112 Rejections

Claims 4-6 and 9 have been rejected under 35 U.S.C. 112, second paragraph, for reasons stated in the Office Action at pages 5-6, sections 6-9.

Claim 4 was rejected for a lack of antecedent basis, and claims 5 and 6 were rejected for depending from claim 4. Claim 4 has been cancelled. Claims 5 and 6 have been amended herein to be dependent on claim 1.

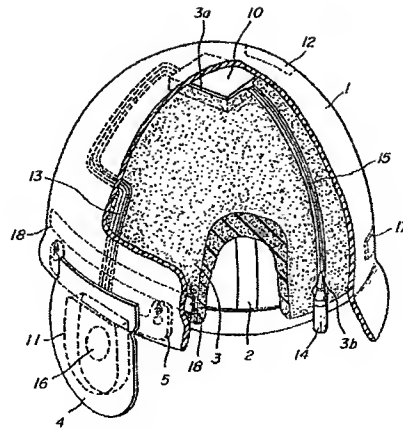
Claim 9 was rejected for an antecedent basis issue, and has been amended accordingly. Specifically, claim 9 is amended herein to refer to “the power source,” which has a proper antecedent in claim 1.

Claim 5 was rejected because the word “appropriate” was viewed as being unclear. This word has been removed from claim 5.

In view of the above, Applicant believes that the rejections to claims 4-6 and 9 have been overcome. Reconsideration and removal of the rejections of claims 4-6 and 9 under 35 U.S.C. 112, second paragraph, is respectfully requested.

35 U.S.C. 102 Rejections

Claims 1-4, 7, 8, 10 and 11 were rejected under 35 U.S.C. 102(b) as being anticipated by Shinoda.



Helmet as shown in Figure 1 of Shinoda.

Shinoda discloses a helmet comprising an outer shell 1 having a ear-pad member 4 attached to a periphery of the outer shell 1 (see Shinoda, Figure 1, reproduced above, column 3, lines 63-65, and column 4, lines 1-7). According to Shinoda, the helmet further comprises a transmitter 10 and a receiver 11 having antennas 17 and 18, respectively, which are separated from each other (see Shinoda, Figure 1, and column 6, lines 4-9). In addition, the helmet of Shinoda comprises a battery unit 12 at a side portion of the helmet, opposite a side portion having the ear-pad member 4 attached to offset weight (see Shinoda, Figure 1, column 4, lines 37-42, and column 6, lines 15-18).

Claim 1 has been amended for clarification. As amended, the claim is more explicitly directed to a sports and training helmet with structural aspects that distinguish over the cited reference.

Shinoda fails to teach or suggest a sports and training helmet comprising “an audio speaker integrated into an interior of the helmet,” as in claim 1. Instead, as shown above, Shinoda discloses a receiver 11 having a speaker 16 that is attached to the ear-pad member 4 of the helmet of Shinoda (see Shinoda, Figure 1, and column 4, lines 35-37). Since the ear-pad member 4 is attached to the periphery of the outer shell 1 of the helmet of Shinoda (see Shinoda, Figure 1, and column 3, lines 63-65), it follows that Shinoda fails to teach or suggest an audio speaker integrated into an interior of a helmet. Note that Shinoda explicitly chooses this placement of ear-pad member 4 to counter balance the weight of battery unit 12.

In addition, Shinoda fails to teach or suggest a sports and training helmet comprising “a self-contained waterproof unit, enclosing” “an electronic control device,” “a radio signal transceiver” and “a radio signal transceiver antenna,” as in claim 1. Instead, Shinoda explicitly distributes elements around its helmet to avoid interference. For example, the receiver 11 of Shinoda is attached to the ear-pad member 4, which is attached to the periphery of the outer shell 1 of the helmet of Shinoda (see also Shinoda, Figure 11B), and is spaced apart from the transmitter 10. Further, the transmitter 10, the receiver 11 and battery unit 12 of Shinoda are in no way enclosed within a helmet as a self-contained waterproof unit, as in claim 1.

Therefore, Shinoda fails to teach or suggest a sports and training helmet comprising a self-contained waterproof unit, as in claim 1. Shinoda merely discloses electronic circuitry (i.e., transmitter 10, receiver 11 and battery unit 12) separately attached to a helmet.

Claims 2-4, 7, 8, 10 and 11 each depend from claim 1, and should inherit the patentability thereof.

With particular regard to claim 2, Applicant also submits that Shinoda fails to teach or suggest a sports and training helmet comprising a self-contained waterproof unit that is coated in plastic, resin or foam-like substance, as in claim 2. Instead, Shinoda merely discloses that the outer shell 1 is made of hard plastics such as polycarbonate, polyethylene, vinyl chloride resin, epoxy resin, ext... (see Shinoda, column 3, lines 52-57), and that the cap-like shock absorbing member 3 is made of shock absorbing material such as foamed polystyrene resin (see Shinoda, column 3, lines 58-65).

With particular regard claim 7, Applicant also submits that Shinoda fails to teach or suggest a sports and training helmet comprising a self-contained waterproof unit that is located at a rear portion of the helmet, as in claim 7. In fact, Shinoda teaches the opposite. In Shinoda neither the transmitter 10, battery unit 12 nor the receiver 11 is located at a rear of the helmet of Shinoda (see Figure 1). Instead, the receiver 11 of Shinoda, which comprises the speaker 16, is positioned just in front of the right hand ear of a user, such that the user can listen clearly to the

sound reproduced by the speaker 16 (see Shinoda, Figure 1, and column 4, line 63 to column 5, line 2). In addition, the transmitter 10 and receiver 11 are expressly separated from each other, as are antennas 17 and 18, to minimize interference (see Shinoda, column 6, lines 4-18).

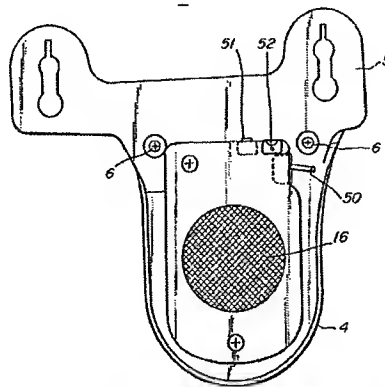
Further, as would be appreciated by one skilled in the art, having benefit of the present application, the claimed placement results in superior balance and avoids any need for counterbalancing. However, Shinoda places its battery unit 12 on one side of the helmet, opposite the ear-pad member 4 having the receiver 11 so that “good weight balance can be achieved” (see Shinoda, Figure 1, and column 6, lines 13-18). Accordingly, Shinoda fails to teach or suggest a self-contained waterproof unit that is located at a rear portion of the helmet, as in claim 7.

In view of the above, reconsideration of the rejection of independent claim 1, and claims 2-4, 8, 8, 10 and 11 dependent thereon, under 35 U.S.C. 102(a) based on Shinoda is respectfully requested.

35 U.S.C. 103 Rejections

Claims 5, 6 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Shinoda. Claims 5, 6 and 9 each depend from independent claim 1, and are patentable for at least reasons similar to those described above with respect thereto.

Elements 50, 51 of Shinoda’s Figure 11B were cited as making obvious claims 5 and 6. Shinoda’s Figure 11B is reproduced below.



Ear-pad member as shown in Figure 11B of Shinoda.

With particular regard to claim 5, Shinoda fails to teach or suggest a sports and training helmet comprising an electronic control device having at least one magnetic switch that is toggled by the application of a magnetic field, as in claim 5. Instead, the receiver 11 of Shinoda is operated by a volume control switch 51 and a power control switch 50, neither of which are a magnetic switch (see Shinoda, Figure 11B, reproduced above, and column 10, lines 5-7).

With particular regard to claim 9, the Office Action asserts at page 9 of that Shinoda is silent as to the how the battery 12 is charged. The Office Action cites Shinoda at column 10, lines 5-7, which discloses a charging jack 52, to justify that it would have been obvious to one of ordinary skill in the art at the time the invention was made to recharge the power source by magnetic induction. However, contrary to the above assertion, Shinoda clearly discloses a charging jack 52 for recharging the battery 12 (see Shinoda, Figure 11B). Moreover, one of skill in the art would readily understand that magnetic induction charging does not require a charging jack 52 as disclosed by Shinoda, since magnetic induction charging is a contactless method, which does not require a charging jack or plug. Shinoda's charging jack 52 makes it vulnerable to water, while the claimed device is not.

In view of the above, reconsideration of the rejections of claims 5, 6 and 9 under 35 U.S.C. 103(a) based on Shinoda is respectfully requested.

New Claims

With particular regard to new independent claims 16 and 19, Applicant submits that new claims 16 and 19 contain certain limitations of independent claim 1, which are believed to render independent claim 1 allowable over the cited prior art. Accordingly, new claims 16 and 19 are believed to be in condition for allowance.

New dependent claims 13-15, 17, 18 and 20-23 should inherit the patentability of their respective independent claims.

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Closing Remarks

It is submitted that all claims are in condition for allowance, and such allowance is respectfully requested. If prosecution of the application can be expedited by a telephone conference, the Examiner is invited to call the undersigned at the number given below.

In connection with this matter, please charge any otherwise unpaid fees which may be due, or credit any overpayment, to Deposit Account Number 501798.

Respectfully submitted,

Date: April 17, 2009

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